

Melissa Powers, OSB No. 02118
Pacific Environmental Advocacy Center
10015 SW Terwilliger Blvd.
Portland, OR 97219
Tel: (503) 768-6727
Fax: (503) 768-6642
powers@lclark.edu

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Brett Brownscombe, OSB No. 00477
Hells Canyon Preservation Council
6975 N. Montana
Portland, OR 97217
Tel: (503) 679-5025
Fax: (503) 222-9187
brett@hellscanyon.org

Roger Flynn
Jeffrey C. Parsons
Western Mining Action Project
Mail Delivery: P.O. Box 349
Personal/Courier Delivery: 412 High Street
Lyons, CO 80540
Tel: (303) 823-5738
Fax: (303) 823-5732
wmap@igc.org

Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HELLS CANYON PRESERVATION COUNCIL, an
Oregon non-profit corporation; **EARTHWORKS**; and
NORTHWEST ENVIRONMENTAL DEFENSE
CENTER, an Oregon non-profit corporation,

Plaintiffs,

Civ. No. 05-1057-PK

STIPULATED SETTLEMENT
AGREEMENT AND ~~[PROPOSED]~~
ORDER ON ATTORNEYS' FEES
AND COSTS

STIPULATED SETTLEMENT AGREEMENT AND [PROPOSED] ORDER ON
ATTORNEYS' FEES AND COSTS, PAGE 1

v.

RICHARD J. HAINES, Whitman Unit Ranger,
Wallowa-Whitman National Forest; **STEVE ELLIS**,
Forest Supervisor, Wallowa-Whitman National Forest;
UNITED STATES FOREST SERVICE,

Defendants.

Plaintiffs, Hells Canyon Preservation Council, Earthworks, and Northwest Environmental Defense Center (collectively, "Plaintiffs"), and Defendants, Richard J. Haines, Steve Ellis, and United States Forest Service (collectively, "Defendants"), by and through their undersigned counsel, state as follows:

WHEREAS Plaintiffs challenged Defendants' Record of Decision ("ROD") authorizing 49 mining operations in the North Fork Burnt River watershed in the Wallowa-Whitman National Forest in Oregon;

WHEREAS, on August 4, 2006, this Court entered an order granting Plaintiffs' motion for summary judgment on claims arising under the Federal Water Pollution Control Act (called the "Clean Water Act" or "CWA"), 33 U.S.C. §§ 1251 *et seq.*, the National Forest Management Act, 16 U.S.C. §§ 1600–1614 ("NFMA"), the Forest Service Organic Administration Act of 1897, 16 U.S.C. §§ 478, 551 and associated regulations ("Organic Act"), and enjoined Defendants from allowing mining or mineral operations in the North Fork Burnt River that violate these laws (Docket No. 76);

WHEREAS, on January 12, 2007, this Court entered an Order and Judgment on Stipulation (Docket No. 95);

WHEREAS, on March 12, 2007, Defendants filed a Notice of Appeal in the Ninth Circuit Court of Appeals (Docket No. 96);

STIPULATED SETTLEMENT AGREEMENT AND [PROPOSED] ORDER ON
ATTORNEYS' FEES AND COSTS, PAGE 2

WHEREAS, on March 23, 2007, Plaintiffs filed a Notice of Cross-Appeal in the Ninth Circuit Court of Appeals (Docket No. 97);

WHEREAS, on June 21, 2007, Plaintiffs and Defendants (collectively, the “Parties”) jointly dismissed the appeals;

WHEREAS, on July 20, 2007, Plaintiffs submitted a petition for fees and costs under the Clean Water Act, 33 U.S.C. § 1365, and the Equal Access to Justice Act, 28 U.S.C. § 2412 (“EAJA”) (Docket No. 101);

WHEREAS, the Parties believe that it is in the interest of judicial economy to avoid litigating the petition for attorneys’ fees;

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The Parties agree to settle all of Plaintiffs’ claims for costs and attorneys’ fees in this action for a total of one hundred twenty thousand dollars (\$120,000.00) in full and complete satisfaction of any and all claims, pursuant to 33 U.S.C. § 1365 and 28 U.S.C. § 2412.

2. Defendants will make best efforts to pay to the Plaintiffs \$120,000 within 120 days of this Settlement Agreement, through electronic funds transfer, for Plaintiffs’ attorneys fees. The electronic funds transfer shall be made to the following account:

Pacific Environmental Advocacy Center
IOLTA Trust Account
Key Bank
Mailcode: OR-20-99-0018
3515 SW Troy St.
Portland, OR 97219
Account Number: 370181010627
Routing Number: 123002011

3. Plaintiffs agree that receipt of full payment from Defendants hereunder shall operate as a release of any and all claims for attorneys' fees and costs in this matter, through and including the date of this agreement.

4. This Court has jurisdiction to enforce the terms of this stipulated agreement.

5. The undersigned representatives of the Parties certify that they are fully authorized by the party or parties whom they represent to enter into the terms and conditions of this stipulated agreement and to legally bind the Parties to it.

IT IS HEREBY AGREED.

DATED this 19th day of November, 2007.

/s/ Melissa Powers
Melissa Powers, OSB No. 02118
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COUNSEL FOR PLAINTIFFS

DATED this 19th day of November, 2007.

RONALD J. TENPAS
Acting Assistant Attorney General
Environment and Natural Resources Division

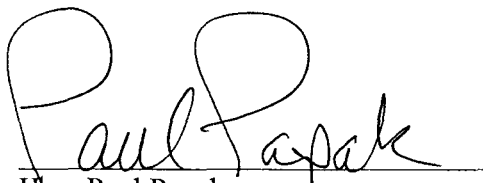
/s/ Robert H. Foster
ROBERT H. FOSTER, CO Bar No. 19563
OSB No. 83202 (Inactive)
U.S. Department of Justice
Environment and Natural Resources Division
1961 Stout Street, 8th Floor
Denver, CO 80294
(303) 844-1362
FAX (303) 844-1350
robert.foster2@usdoj.gov

ATTORNEYS FOR ALL DEFENDANTS

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IT IS SO ORDERED.

Dated this 19th day of November, 2007.


Hon. Paul Papak
United States Magistrate Judge
United States District Court
District of Oregon